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Thomas L.C. Simpson

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BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD, IL 60015

EXAMINER

RAPILLO, KRISTINE K

ART UNIT

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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,589	Applicant(s) SIMPSON ET AL.	
	Examiner KRISTINE K. RAPILLO	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/27/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/6/2004; 7/6/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Request for Continued Examination submitted November 7, 2008. Claims 1, 4, 15, and 25 are amended. Claims 2 and 29 are cancelled. Claims 1, 3 – 28, and 30 are presented for examination.

Drawings

2. The objection to the drawings are hereby withdrawn based upon the amendment filed November 7, 2008.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3 – 6, 9, 10, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al., herein after Reuss (U.S. Patent Number 6,364,834).

In regard to Claim 1 (currently amended), Ruess teaches a method for executing a notification process within a healthcare system comprising the steps of:

- generating a signal at a medical treatment device that a notification condition exists for a specific patient (column 8, lines 52 – 67 and column 9, lines 33 – 37);

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- transmitting the signal relating to the notification condition to a first clinician's device (column 5, lines 13 – 64);
- indicating the notification condition on the clinician's device (column 4, line 55 through column 5, line 12 and column 15, lines 48 – 60);
- operating a timer to determine if a response to the notification condition is received during a predefined timer limit (column 5, 1 – 12 and column 5, lines 38 8- 64); and
- if the response to the notification condition is not received prior to the predefined timer limit, transmitting the signal relating to the notification condition to a second clinician's device (column 5, lines 38 – 64 and column 9, line 56 through column 10, line 5).

In regard to claim 3 (original), Reuss teaches a method, as per claim 1, further comprising the step of transmitting the signal relating to the notification condition to a charge clinician (column 4, line 55 thorough column 5, line 12 and column 15, lines 48 - 60).

In regard to claim 4 (Currently Amended!), Reuss teaches a method, as per claim 1, wherein the step of transmitting the signal to the second clinician's device is executed when the timer elapses (column 5, lines 38 – 64 and column 9, line 56 through column 10, line 5).

In regard to claim 5 (original), Reuss teaches a method, as per claim 1, wherein the step of transmitting the signal relating to the notification condition to the first clinician's device comprises transmitting a wireless notification condition signal to the first clinician's device (column 3, lines 35 – 39; column 3, lines 45 – 50; column 4, lines 1 – 4; and, column 4, lines 22 - 54).

In regard to claim 6 (original), Reuss teaches a method, as per claim 1, wherein the step of transmitting the signal relating to the notification condition to the second clinician's device comprises

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transmitting a wireless notification condition signal to the second clinician's device (Column 5, lines 25 – 30 and column 5, lines 56 – 64).

In regard to claim 9 (original), Reuss teaches a method, as per claim 1, wherein the step of transmitting the signal comprises sending the signal to one of a PDA, a mobile phone, a pager, an e-mail address, an instant messaging receiver or a conventional telephone (column 15, line 48 through column 16, line 14).

In regard to claim 10 (original), Reuss teaches a method, as per claim 1, wherein the step of transmitting the signal to the first clinician's device comprises sending the signal simultaneously to at least two of a mobile phone, a pager, an e-mail address, an instant messaging receiver or a conventional telephone (column 15, line 48 through column 16, line 14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss as applied to claim 1 above, and further in view of Dempsey et al., herein after Dempsey (U.S. Patent Number 6,057,758).

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In regard to claim 7 (original), Reuss teaches a method of executing a notification process as per claim 1. Reuss fails to teach a method wherein there is a many-to-many relationship between first clinicians and patients.

Dempsey teaches a method wherein there is a many-to many relationship between first clinicians and patients (column 8, lines 47 – 55).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method wherein there is a many-to many relationship between first clinicians and patients as taught by Dempsey with the motivation of allowing a physician or other health care provider the means of remotely monitoring the health status of patients in their care (column 4, lines 40 – 54).

In regard to Claim 26 (Previously Presented), Reuss teaches the system of claim 1. Reuss fails to teach a system further comprising software installed on the first clinician's device having a time-out output, wherein the time-out output indicates a loss of a wireless communication link between the first clinician's device and the medical treatment application device.

Dempsey teaches a system further comprising software installed on the first clinician's device having a time-out output, wherein the time-out output indicates a loss of a wireless communication link between the first clinician's device (column 3, lines 24 - 33) where an alarm is generated in response to an anomaly. The Examiner interprets when the output from a medical treatment device is interrupted to be an anomaly.

The motivation to combine the teachings of Reuss and Dempsey is discussed in the rejection of claim 7, and incorporated herein.

7. Claims 8, 15 - 17 and 20 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss further in view of Bar-Gadda et al., herein after Bar-Gadda (WO 99/42933).

In regard to claim 8 (original), Reuss teaches a method, as per claim 1. Reuss fails to teach a method wherein there is a many-to-many relationship between first clinicians and charge clinicians.

Bar-Gadda teaches a method wherein there is a many-to-many relationship between first clinicians and charge clinicians (page 5, lines 5 – 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method wherein there is a many-to-many relationship between first clinicians and charge clinicians as taught by Bar-Gadda, within the method of Reuss, with the motivation of providing a tool to efficiently distribute patient information in a cost effective manner (page 1, lines 18 – 22).

In regard to Claim 15 (currently amended), Reuss teaches a system for providing messages to remote clinician devices in a healthcare system, comprising: a request message generated substantially within a time interval by a program within a software application executed by a clinician device (column 4, line 55 through column 5, line 12 and column 15, lines 48 – 60) and wherein the information contained within the data packet includes at least one of status information and programming information for the medical treatment device (column 5, line 65 through column 6, line 9; column 9, line 56 through column 10, line 5; column 11, lines 15 - 26; and column 12, lines 14 – 24).

Reuss fails to teach a system comprising a response message generated by a first computer in response to the request message and including information contained within a data packet generated by a medical treatment device

Bar-Gadda teaches a system comprising a response message generated by a first computer in response to the request message and including information contained within a data packet generated by a medical treatment device (page 5, lines 34 – 35 and page 6, lines 1 – 7).

The motivation to combine the teachings of Reuss and Bar-Gadda is discussed in the rejection of claim 8, and incorporated herein.

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In regard to claim 16 (Previously Presented), Reuss teaches a system as per claim 15, wherein the information is modified in response to a change in the information contained within another data packet generated by the medical device (column 5, lines 13 – 37; column 7, lines 15 – 58; column 11, lines 15 – 26; column 12, lines 25 – 50; column 14, lines 12 - 33; and, column 16, lines 2 - 15).

In regard to claim 17 (original), Reuss teaches a system, as per claim 16. Reuss fails to teach a system, wherein the program is written in JAVA.

Bar-Gadda teaches a system wherein the program is written in JAVA (page 8, lines 6 – 8).

The motivation to combine the teachings of Reuss and Bar-Gadda is discussed in the rejection of claim 8, and incorporated herein.

In regard to claim 20 (original), Reuss teaches a system, as per claim 15. Reuss fails to teach a system wherein the software application is a Web browser.

Bar-Gadda teaches a system wherein the software application is a Web browser (page 7, lines 2 – 4 and table).

The motivation to combine the teachings of Reuss and Bar-Gadda is discussed in the rejection of claim 8, and incorporated herein.

In regard to claim 21 (original), Reuss teaches a system, as per claim 15, wherein the clinician device is attached to a network within a healthcare facility (column 14, line 52 through column 15, line 2).

8. Claims 11 – 13 and 27 – 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss and Bar-Gadda and further in view of Mault (U.S. Publication Number 2001/0044588 A1).

In regard to claim 11 (Previously Presented), Reuss teaches a system for providing messages to remote clinician devices in a healthcare system comprising:

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- a first central computer attached to a network (Figure 4; column 3, line 63 through column 4, line 4; column 4, lines 22 – 41; and column 10, lines 43 – 48);
- a remote device associated with the clinician and operably attached to the network, the remote device comprising a visual display (column 5, lines 13 – 64 and column 15, lines 28 – 40);
- a request generated by the remote device and received by the first central computer (column 5, lines 13 – 37; column 10, lines 26 – 48; column 10, line 46 through column 11, line 5; column 12, lines 25 - 50; column 15, line 61 through column 16, line 15; and claim 12).

Reuss fails to teach a system comprising a response message generated by the first central computer and including information contained within a data packet generated by a medical treatment device and wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device.

Bar-Gadda teaches a system comprising a response message generated by the first central computer and including information contained within a data packet generated by a medical treatment device (page 5, lines 34 – 35 and page 6, lines 1 – 7). Bar-Gadda fails to teach a system wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device.

Mault teaches a system wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device (paragraph [0043]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device as taught by Mault, within the system of Reuss and Bar-Gadda, with the motivation of enabling a health care provider remote access to physiological parameters to alert caregivers of any out-of-tolerance results from the measurement of parameters (paragraph [0016]).

In regard to claim 12 (original), Reuss teaches a system, as per claim 11, further comprising: a second computer attached, via a communication link, to the first central computer at least partially located

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within a health care facility, wherein the request generated by the remote device is received by the first central computer and the second central computer, wherein a response message is generated by the second central computer in response to the request generated by the remote device, and wherein the response message generated by the first central computer comprises the response message provided by the second central computer and additional data added by the first central computer (column 17, lines 3 - 32).

In regard to claim 13 (original), Reuss teaches a system, as per claim 12. Reuss fails to teach a system wherein said remote device further comprising a browser responsive to the response message generated by the first central computer.

Bar-Gadda teaches a system wherein said remote device further comprising a browser responsive to the response message generated by the first central computer (page 7, lines 2 – 4; page 7, lines 10 – 14; and page 7, table).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein said remote device further comprising a browser responsive to the response message generated by the first central computer as taught Bar-Gadda, within the system of Reuss, with the motivation of providing a tool to efficiently distribute patient information in a cost effective manner (page 1, lines 18 – 22).

In regard to claim 14 (original), Reuss teaches a system, as per claim 12, wherein the remote device receives a second response message generated by the second central computer in response to a second request generated by the terminal device, wherein the second response message and the second request are routed through the first central computer (column 17, lines 3 – 32).

In regard to Claim 27 (Previously Presented), Bar-Gadda et al. and Eggers et al. teach the system of claim 11. Bar-Gadda et al. and Eggers et al. fail to teach a system wherein the information

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contained within the data packet includes at least one of status information and programming information for the medical treatment application device.

Mault teaches a system wherein the information contained within the data packet includes at least one of status information and programming information for the medical treatment application device (paragraph [0055]).

The motivation to combine the teachings of Bar-Gadda et al., Eggers et al., and Mault is discussed in the rejection of claim 11, and incorporated herein.

In regard to Claim 28 (Previously Presented), Bar-Gadda et al. and Eggers et al. teach the system of claim 11. Bar-Gadda et al. and Eggers et al. fail to teach a system wherein the response message includes a display icon configured to access a list of a plurality of notification conditions corresponding to a specific patient from the first central computer.

Mault teaches a system wherein the response message includes a display icon configured to access a list of a plurality of notification conditions corresponding to a specific patient from the first central computer (paragraph [0055]).

The motivation to combine the teachings of Bar-Gadda et al., Eggers et al., and Mault is discussed in the rejection of claim 11, and incorporated herein.

9. Claims 18 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss and Bar-Gadda and further in view of Dempsey (U.S. Patent Number 6,057,758).

In regard to claim 18 (original), Reuss and Bar-Gadda teach a method of executing a notification process as per claim 16.

Reuss and Bar-Gadda fail to teach a system wherein the program is written in C#.

Dempsey et al. teaches a system wherein the program is written in C# (column 10, lines 38 – 45). C# is also known as C-Sharp. Dempsey et al. discloses an object oriented programming language of which C-Sharp (or C#) is included.

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system where the program is written in C# as taught by Dempsey et al. with the motivation of providing a software program which provides an interface with the handheld terminals such as a PDA (column 9, lines 31- 32).

In regard to Claim 30 (Previously Presented), Reuss and Bar-Gadda teach the system of claim 15. Reuss and Bar-Gadda fail to teach a system wherein the software application is configured to provide access to a list of a plurality of active medical device alerts associated with a specific patient.

Dempsey et al. teaches a system wherein the software application is configured to provide access to a list of a plurality of active medical device alerts associated with a specific patient (column 3, lines 47 – 61).

The motivation to combine the teachings of Bar-Gadda et al., Eggers et al., Mault, and Dempsey et al. is discussed in the rejection of claim 7, and incorporated herein.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-Gadda et al., Eggers et al., and Mault as applied to claim 16 above, and further in view of www.catharsismedical.com (12/9/01).

In regard to claim 19 (original), Reuss and Bar-Gadda teach the system of claim 16.

Reuss and Bar-Gadda fail to teach a system wherein the program is written in Visual Basic Script. www.catharsismedical.com teaches a system wherein the program is written in Visual Basic Script (paragraph 6). www.catharsismedical.com uses Windows NT which is a Visual Basic Script.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the program is written in Visual Basic Script as taught by www.catharsismedical.com with the motivation of allowing the infusion pump and hardware to send messages to a Windows NT server (paragraph 17).

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss and Bar-Gadda and further in view of Eggers et al., herein after Eggers (U.S. Publication Number 2002/0169636).

In regard to claim 22 (original), Reuss and Bar-Gadda teach a system as per claim 16. Reuss and Bar-Gadda fail to teach a system wherein the medical device is an infusion pump.

Eggers et al. teaches a system wherein the medical device is an infusion pump (paragraph [0026]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the medical device is an infusion pump as taught by Eggers et al. with the motivation of providing a system in which a medical device can be programmed to deliver medication to a patient (paragraph [0011]).

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-Gadda et al., Eggers et al., and Mault and further in view of Paula ("MEMS Sensors Branch Out". Mechanical Engineering. New York: Oct 1996. Vol. 118, Iss. 10; pg 64).

In regard to claim 23 (original), Reuss and Bar-Gadda teach the system of claim 16. Reuss and Bar-Gadda fail to teach a system wherein the medical device is a MEMS device.

Greg teaches a system wherein the medical device is a MEMS device (paragraph 7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the medical device is a MEMS device as taught by Greg with the motivation of offering a smaller size, lower cost, and more accurate medical device (paragraph 42).

13. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss further in view of Mault.

In regard to claim Claim 24 (Previously Presented), Reuss teaches the method of claim 1. Reuss fails to teach a method wherein the notification includes at least one of status information and programming information for the medical treatment application device.

Mault teaches a method wherein the notification includes at least one of status information and programming information for the medical treatment application device (paragraph [0055]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method wherein the notification includes at least one of status information and programming information for the medical treatment application device as taught by Mault, within the method of Reuss, with the motivation of enabling a health care provider remote access to physiological parameters to alert caregivers of any out-of-tolerance results from the measurement of parameters (paragraph [0016]).

In regard to Claim 25 (Previously Presented), Reuss teaches the method of claim 1. Reuss fails to teach a method further comprising the steps of (i) determining whether one of the medical treatment application device and the clinician's device provides a response to the notification condition prior to a predefined timer limit, and (ii) executing an escalated notification process if the response is not received prior to the predefined timer limit.

Mault teaches a method further comprising the steps of (i) determining whether one of the medical treatment application device and the clinician's device provides a response to the notification condition prior to a predefined timer limit, and (ii) executing an escalated notification process if the response is not received prior to the predefined timer limit (paragraph [0055]).

The motivation to combine the teachings of Reuss and Mault is discussed in the rejection of claim 24, and incorporated herein.

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Response to Arguments

14. Applicant's arguments filed October 27, 2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed October 27, 2008.

In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art to the claims. As such, the Applicant's remarks with regard to the application of the references are moot in light of the addition of the Reuss reference.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626